

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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|---------------------------|---|--------------------------|
| UNITED STATES OF AMERICA, | : | NO. 1:95-CR-00004 |
| | : | |
| | : | |
| v. | : | |
| | : | OPINION AND ORDER |
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| ALMOS STARKS. | : | |
| | : | |

This matter is before the Court on Defendant's Motion for Reconsideration (doc. 114), and the government's Response in Opposition (doc. 118). For the reasons indicated herein, the Court DENIES Defendant's Motion.

Defendant contends he is entitled to relief based on United States v. Blewett, 719 F.3d 482 (6th Cir. May 17, 2013). The Sixth Circuit held in Blewett that the mandatory minimum sentences of the Fair Sentencing Act apply retroactively to defendants who were sentenced before August 3, 2010, the effective date of the Act. The Court previously held this matter in abeyance pending an en banc hearing of the Sixth Circuit (doc. 116). On December 3, 2013 the Sixth Circuit ruled en banc that the Fair Sentencing Act does not have retroactive applicability to defendants whose sentences became final before August 3, 2010. On March 31, 2014, the United States Supreme Court denied a writ of certiorari, 2014 U.S. LEXIS 2301, such that the Sixth Circuit's decision stands.

The government contends that because Defendant's sentence

became final before the effective date of the Fair Sentencing Act, under the Sixth Circuit's en banc decision, Defendant is not entitled to retroactive application of the Act (doc. 118). The Court finds the government's position well-taken and therefore DENIES Defendant's Motion for Reconsideration (doc. 114).

SO ORDERED.

Dated: May 1, 2014

s/S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge